

PROVIDING FOR THE USE AND DISTRIBUTION OF THE LAKE SUPERIOR AND MISSISSIPPI BANDS OF CHIPPEWA INDIANS JUDGMENT FUNDS IN DOCKET 18-S AND THE LAKE SUPERIOR BAND OF CHIPPEWA INDIANS JUDGMENT FUNDS IN DOCKET 18-U, BEFORE THE INDIAN CLAIMS COMMISSION, AND FOR OTHER PURPOSES

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APRIL 18, 1984.—Ordered to be printed

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Mr. ANDREWS, from the Select Committee on Indian Affairs,  
submitted the following

## REPORT

[To accompany S. 2177]

The Select Committee on Indian Affairs, to which was referred the bill (S. 2177) to provide for the use and distribution of the Lake Superior and Mississippi Bands of Chippewa Indians judgment funds in docket 18-S and the Lake Superior Band of Chippewa Indians judgment funds in docket 18-U, before the Indian Claims Commission, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

The amendments are as follows:

1. On page 2, line 22, strike out "16061" and insert in lieu thereof "8,437."
2. On page 2, line 23, strike out "16061" and insert in lieu thereof "8,437."
3. On page 3, line 2, strike out "16061" and insert in lieu thereof "8,437."
4. On page 3, line 4, strike out "16061" and insert in lieu thereof "8,437."
5. On page 3, line 9, strike out "16061" and insert in lieu thereof "7,624."
6. On page 3, line 10, strike out "16061" and insert in lieu thereof "7,624."
7. On page 3, line 11, strike out "16061" and insert in lieu thereof "7,624."

8. On page 3, strike all of line 22 after the numeral "5" through line 6 on page 4, and in lieu thereof insert the following:

Twenty per centum of the funds apportioned under sections 3 and 4 of this Act shall be made available to the respective groups for program purposes within 60 days of this Act: Provided, that each group has submitted a plan for such use, and said plan has been approved by the Secretary.

#### PURPOSE

The purpose of S. 2177 is to provide for the use and distribution of judgment funds awarded to the Lake Superior and Mississippi Bands of Chippewa Indians enrolled in the Minnesota Chippewa Tribe. These judgments were awarded in dockets numbered 18-S and 18-U of the Indian Claims Commission and funds were subsequently appropriated in satisfaction of such awards. Under section 1(d) of the Indian Judgment Funds Act Amendments (Public Law 97-458), the Secretary of the Interior is required to submit legislation to provide for the distribution of judgment funds if he is unable to meet the statutory deadline for the approval of a distribution plan. Since the Secretary was unable to meet the statutory deadline or to prepare legislation to effectuate distribution of the judgment award, S. 2177 was thus introduced.

#### BACKGROUND

On November 23, 1977, the Indian Claims Commission entered a final award to the Minnesota Chippewa Tribe, et al., in the amount of \$8,516,128.32 in docket numbered 18-S. This award was to be divided two-thirds among the Chippewas of Lake Superior and one-third among the Chippewas of the Mississippi. On March 10, 1978, pursuant to 31 U.S.C. 724a, as amended, funds were appropriated to cover this award. The award in docket 18-S represents additional compensation for some 10.5 million acres of land in northern Wisconsin and the upper peninsula of Michigan, which were ceded to the United States by the Lake Superior and Mississippi Chippewas under a treaty of October 4, 1842. The Indian Claims Commission found that the promised consideration of \$875,000 was grossly inadequate.

In docket numbered 18-U, the Indian Claims Commission entered a final award in the amount of \$2,621,174.58, on March 30, 1978. Funds were subsequently appropriated on July 27, 1978, pursuant to 31 U.S.C. 724a, as amended. In docket 18-U, the award represents additional compensation for lands in northeastern Minnesota which were ceded to the United States by the treaty of September 30, 1854. The Indian Claims Commission found that the promised consideration of \$813,353.19 was grossly inadequate. The fair market value of the land for the 1854 treaty cession of lands was \$3,250,000.

The Chippewas were one of the larger groups of Indians located in the northern Great Lakes area and were primarily divided into five distinct bodies or tribes: Lake Superior, Mississippi, Pillager, Red Lake, and Pembina. Historically, the "Chippewas of the Mississippi" consisted of at least 12 local bands, and the "Chippewas of Lake Superior" consisted of 12 or more local bands.

The United States entered into 43 separate treaties with the Chippewas during the period of 1785 to 1970. The earlier treaties described the Chippewas as a single tribe occupying a large area which extended from Lake Huron on the east to beyond Lake Superior on the west. However, in later treaties, they were regarded as divided into distinct bands. Individual bands were recognized as occupying areas in Michigan, Wisconsin, Minnesota, and eastern North Dakota, and entitled to hold or cede their lands as was independently determined. Approval of either the other bands or the Chippewa Tribe as a whole was not required.

Most of the Lake Superior Bands of Chippewa Indians became permanently settled in Michigan, Wisconsin, and Minnesota on reservations established for them under the 1854 treaty. The Minnesota Mississippi Chippewas had reservations established for them by the treaties entered into between the years 1855 and 1867. The majority of the descendants of the Mississippi and Lake Superior Chippewa treaty bands have continued their tribal, as well as reservation affiliations. Each reservation group organized separately or as a confederation under the provisions of the Indian Reorganization Act of 1934. All members of the Minnesota Chippewa Tribe are enrolled by historic band and reservation affiliation designations. Each enrollee is limited to a designation as a descendant of a single band regardless of mixed band ancestry. A change in band designation is not permitted by the tribe for judgment award purposes.

S. 2177 provides for the distribution of funds to the following constituent bands and enrollees of the Minnesota Chippewa Tribe by their reservation affiliation; Fond du Lac Reservation; Grand Portage Reservation; Nett Lake Reservation, including Vermillion Lake and Deer Creek (Bois Forte Band); White Earth Reservation; Mille Lacs Reservation; and Leech Lake Reservation.

S. 2177 provides for the apportionment and distribution of funds belonging only to the seven Lake Superior and Mississippi groups enrolled with the Minnesota Chippewa Tribe. S. 2177 does not provide for the distribution of the other seven bands included in the judgment awards in dockets 18-S and 18-U. The seven other bands make up the Lake Superior Bands of Wisconsin and Michigan. The Wisconsin bands are Bad River; Lac Courte Oreilles; Lac du Flambeau; Sokaogon Chippewa Community (Mole Lake); Red Cliff; and St. Croix. The Michigan band is Keweenaw Bay Community (L'Anse, Lac Vieux Desert and Ontonagon Bands). Separate legislation will also be required to distribute their share of the judgment awards, as the Bureau of Indian Affairs failed to meet the statutory deadline for an approved distribution plan.

S. 2177 provides that 20 percent of the funds appropriated to the constituent bands of the Chippewa Tribe shall be used by them for community purposes and 80 percent shall be used for per capita payments.

The provisions of the bill are consistent with the distribution plan for the Minnesota Chippewa Tribe which was approved by the Secretary of the Interior in 1979 for judgments awarded in dockets numbered 18-C and 18-T.

## LEGISLATIVE HISTORY

S. 2177 was introduced by Senator Boschwitz, for himself and Senator Durenberger on November 18, 1983. The bill was subsequently referred to the Select Committee on Indian Affairs for consideration. A hearing was held on March 8, 1984, to receive testimony from tribal and administration witnesses. The committee held a business meeting on April 9, 1984, at which time it ordered the bill reported favorably, with amendments.

## COMMITTEE RECOMMENDATION AND TABULATION OF VOTE

The Select Committee on Indian Affairs, in open business session on April 9, 1984, with a quorum present recommends by a unanimous vote that the Senate pass S. 2177 as amended.

## AMENDMENTS

The Select Committee on Indian Affairs, at its business session on April 9, 1984, ordered S. 2184 be reported with amendments. These amendments are set forth in full at the beginning of this report. Their purposes are explained in the section-by-section analysis that follows.

## SECTION-BY-SECTION ANALYSIS

Section 1. Authorizes the distribution of awards in docket 18-S.

Section 2. Provides that the funds referred to in sections 1 and 4 shall be divided on the basis of the population and reservation community groups as reflected in the census and annuity rolls for the period 1937-41 and as specified in this act.

Section 3. Provides for the apportionment of judgment funds among the Lake Superior Band of Chippewa Indians enrolled in the Minnesota Chippewa Tribe by reservation affiliation.

Section 4. Authorizes the distribution of awards in docket 18-U.

Section 5. Provides that 20 percent of the funds apportioned under sections 3 and 4 shall be held in trust by the Secretary for the benefit of the respective bands of the Minnesota Chippewa Tribe, and invested by the Secretary for the best interest of the bands. And provides that such funds shall be used by the respective bands based on plans developed by the respective bands, and approved by the Secretary.

Section 6. Provides that 80 percent of the funds apportioned under sections 3 and 4 shall be held and administered by the Secretary for per capita distribution among the enrolled members of the respective bands.

Section 7. Provides that no person will be entitled to more than one capital share of the funds apportioned under sections 3 or 4, except that a person may be entitled to one capital share of each of the funds apportioned under those sections.

Section 8. Provides for direct per capita payments to living competent adults. Also, provides that per capita shares of minors and legal incompetents shall be handled according to applicable law.

Section 9. Provides that none of the funds distributed per capita or held in trust shall not be subject to Federal or State income taxes



or be considered as income or resources in determining eligibility for assistance under the Social Security Act or other Federal assistance programs.

Section 10. Provides that the Lake Superior and Mississippi Band of the Minnesota Chippewa Tribe shall be brought current according to tribal procedures, and approval by the Secretary.

Section 11. Provides that nothing in this act shall affect the use or distribution of the shares of the judgment funds in dockets 18-S and 18-U which the members of the Lake Superior or Mississippi Bands of Chippewa Indians who are not enrollees of the Minnesota Chippewa Tribe are entitled.

#### COST AND BUDGETARY CONSIDERATIONS

The cost estimate for S. 2177, as amended, as provided by the Congressional Budget Office, is outlined below:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, D.C., April 12, 1984.*

Hon. MARK ANDREWS,  
*Chairman, Select Committee on Indian Affairs,*  
*U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 2177, a bill to distribute funds awarded the Lake Superior and Mississippi Bands of Chippewa Indians in docket 18-S and the Lake Superior Band of Chippewa Indians in docket 18-U, as amended and ordered reported by the Senate Select Committee on Indian Affairs, April 9, 1984.

The Congressional Budget Office has determined that enactment of this bill would not result in any additional costs to either the Federal Government or State and local governments in the area. The bill would provide a procedure for distributing approximately \$11.1 million in funds previously awarded by the Indian Claims Commission.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

RUDOLPH G. PENNER, *Director.*

#### REGULATORY IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The committee believes that S. 2177 will have a minimal impact on regulatory or paperwork requirements.

#### EXECUTIVE COMMUNICATIONS

The legislative report on S. 2177 was not received from the Department of Interior by the Committee before the filing of this report. However, the following testimony was presented by the Department of Interior at the hearing on the bill held on March 8, 1984.

STATEMENT OF JOHN W. FRITZ, DEPUTY ASSISTANT SECRETARY OF INDIAN AFFAIRS (OPERATIONS), DEPARTMENT OF THE INTERIOR, BEFORE THE HEARING OF THE SELECT COMMITTEE ON INDIAN AFFAIRS, UNITED STATES SENATE, ON S. 2177, A BILL "TO PROVIDE FOR THE USE AND DISTRIBUTION OF THE LAKE SUPERIOR AND MISSISSIPPI BANDS OF CHIPPEWA INDIANS JUDGMENT FUNDS IN DOCKET 18-S AND THE LAKE SUPERIOR BAND OF CHIPPEWA INDIANS JUDGMENT FUNDS IN DOCKET 18-U, BEFORE THE INDIAN CLAIMS COMMISSION, AND FOR OTHER PURPOSES," MARCH 8, 1984

Mr. Chairman, I am pleased to present the views of the Department of the Interior on S. 2177, a bill to provide for the distribution of the judgment funds of the Lake Superior and Mississippi Bands of Chippewa Indians.

We recommend enactment of S. 2177.

S. 2177 would provide for the disposition of funds awarded to the Lake Superior and Mississippi Bands of Chippewa Indians in docket 18-S and funds awarded to the Lake Superior Band in docket 18-U. The funds in docket 18-S would be divided two-thirds among the Lake Superior Chippewa Indians and one-third among the Mississippi Chippewa Indians.

Under S. 2177, the respective shares of those Lake Superior Indians enrolled in the Minnesota Chippewa Tribe would be apportioned by reservation affiliation; namely, (1) the Fond Du Lac Reservation, (2) the Grand Portage Reservation, (3) the Nett Lake Reservation (including Vermillion Lake and Deer Creek), and (4) the White Earth Reservation. The respective shares of the Mississippi Chippewa Indians enrolled in the Minnesota Chippewa Tribe would be apportioned by reservation affiliation; namely, (1) the Mille Lacs Reservation, (2) the White Earth Reservation, and (3) the Leech Lake Reservation.

Of the Lake Superior share of funds in docket 18-S and the funds in docket 18-U, 20 percent of each reservation's portion of funds would be used for tribal programing purposes and 80 percent of such funds would be distributed per capita to those eligible enrollees affiliated with each reservation. Of the Mississippi share of funds in docket 18-S, 20 percent of each reservation's portion of funds would be used for tribal programing purposes and 80 percent of such funds would be distributed per capita to those eligible enrollees affiliated with each reservation.

On November 23, 1977, the Indian Claims Commission entered a final award to the Minnesota Chippewa Tribe, et al., in docket 18-S, in the sum of \$8,516,128.32 to be divided two-thirds among the Chippewas of Lake Superior and one-third among the Chippewas of the Mississippi. Funds to cover the award were appropriated on March 10, 1978. The award in docket 18-S represents additional compensation for some 10.5 million acres of land in northern Wisconsin and the Upper Peninsula of Michigan, which were ceded to the United States by the Lake Superior and Mississippi Chippewas under a treaty of October 4, 1842. The Indian Claims Commission found that the promised consideration of \$875,000 was grossly inadequate.

On March 30, 1978, the Indian Claims Commission entered a final award to the Chippewas of Lake Superior in docket No. 18-U, in the sum of \$2,621,174.58. Funds to cover the award were appropriated on

July 27, 1978. The award represents additional compensation for lands in northeastern Minnesota which were ceded to the United States by a treaty of September 30, 1854. The Indian Claims Commission found that the promised consideration of \$813,353.19 for the 1854 treaty cession of lands having a fair market value of \$3,250,000 was grossly inadequate.

The Chippewas were one of the larger groups of Indians of the Algonquian linguistic stock, located in the northern Great Lakes area and were primarily divided into five distinct bodies or tribes: Lake Superior, Mississippi, Pillager, Red Lake, and Pembina. Historically, the "Chippewas of the Mississippi" consisted of at least 12 local bands, and the "Chippewas of Lake Superior" consisted of 12 or more local bands.

From the year 1785 to 1870, the United States concluded 43 separate treaties with the Chippewas. In early treaties, the Chippewas were dealt with as a single tribe and were shown as occupying a large area reaching from Lake Huron on the east to and beyond Lake Superior on the west. In later treaties, they were regarded as divided into distinct bands. Particular bands were recognized as occupying areas in Michigan, Wisconsin, Minnesota, and eastern North Dakota, and entitled to hold or cede the same, independently of other bands and of the Chippewas as a whole.

The Lake Superior Chippewas, for the most part, became permanently settled in Michigan, Wisconsin, and Minnesota on reservations established for them under the 1854 treaty. Reservations were established for the various Minnesota Mississippi Chippewas by treaties concluded between 1855 and 1867. The majority of the descendants of the Mississippi and Lake Superior Chippewa treaty bands have continued their tribal affiliation and identify with the reservations established for them. Each reservation group organized separately or as a confederation under the provisions of the Indian Reorganization Act of 1934. All members of the Minnesota Chippewa Tribe are enrolled by historic band and reservation affiliation designations. Each enrollee is limited to a designation as a descendant of a single band regardless of mixed band ancestry. A change in band designation is not permitted by the tribe for judgment fund purposes. The Bureau of Indian Affairs has approved this practice.

Those entitled to share in dockets 18-S and 18-U include members of seven Lake Superior Chippewa tribal organizations on reservations in Wisconsin and Michigan and the Lake Superior and Mississippi descendants enrolled with the Minnesota Chippewa Tribe and affiliated with the tribe's designated reservation.

We note that S. 2177 provides for the apportionment and distribution of funds belonging only to the seven Lake Superior and Mississippi groups enrolled with the Minnesota Chippewa Tribe. Proposals for the disposition of the apportioned shares of the other seven groups would also require legislation. If the committee so desires, we are prepared to work with your staff on appropriate amendments to S. 2177 which would include all 14 beneficiary groups to eliminate the need for separate legislation.

This concludes my prepared statement and I would be pleased to respond to any questions you may have.

## CHANGES IN EXISTING LAW

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, the committee states as follows: It is the opinion of the committee that it is necessary to dispense with the requirements of this subsection to expedite the business of the Senate.

